IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATIONS No.4857/81 TO 4865/81

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BAGASARA NAGAR PANCHAYAT

Versus

NARAN AMRA

Appearance:

1. Special Civil Application No. 4857 of 1981
   MR DD VYAS for Petitioner No. 1
   MR MO JOSHI for Respondent No. 1
2. Special Civil Application No. 4858 of 1981
   MR DD VYAS for Petitioner No. 1
   MR MO JOSHI for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 18/09/2001

ORAL JUDGEMENT (Per : MR.JUSTICE RAVI R.TRIPATHI)

These petitions are filed by Bagasara Nagar Panchayat. At annexure 'A' to each of the petitions are the orders passed by the Controlling Authority under the Payment of Gratuity Act, 1972. By order, Annexure 'A' the authority asked the petitioner, Panchayat to pay a sum of Rs.4987.90 (in Special Civil Application No.4857 of 1981; in other matters also similar amount with some variation was ordered to be paid). The Nagar Panchayat filed a review application. The same was also rejected. Copies of order rejecting the review applications are annexed at Annexure 'B'. Thereafter, respective appeals were filed before the appellate authority under Payment of Gratuity Act, 1972 being Appeals No.39 to 47 of 1981. The appellate authority, after considering the case in detail, held that the respondents in respective petitions were the employees of the Panchayat and were not the Government servants. It was also held that they were not holding any 'civil posts'. It is also recorded by the appellate authority that the employees have either retired or died. The appeals were partly allowed to the extent of calculation of amount of gratuity. The petitioner Panchayat had agreed to the calculation of gratuity amount and also agreed to pay the amount after deducting the amount already paid from the amount which was held to be payable. The appellate authority then passed order to pay to the surviving employees and in case of those who died on execution of an indemnity bond, the amount as mentioned in Schedule I after deducting the amount mentioned in Schedule II. This order of the appellate authority is produced at Annexure 'C'. All these orders at Annexure 'A', 'B' & 'C' are under challenge. It is prayed that all these orders be quashed and set aside.

2. Without going into the merits of these matters and without keeping the challenge to the legality of these orders open, on the ground of smallness of the amount involved in these matters and looking to the fact that the persons who are involved in these matters are Safai Kamdars, who have already retired, and except two of them others had expired even on the date of passing of the order by the appellate authority, these petitions are dismissed. The Court has not gone into the larger issue involved in these matters and the same is kept open for the petitioners to urge in appropriate case.

3. These petitions are dismissed with no order as to costs. Rule is discharged. Interim relief is vacated.

(D.M. Dharmadhikari, C.J.)

(Ravi R. Tripathi, J.)

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